

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**JAMES DENNIS,**

**Plaintiff,**

**v.**

**Civil Action No. 2:11-cv-00401-MSD**

**WELLS FARGO BANK, N.A., et al,**

**Defendants.**

**PLAINTIFF'S MOTION FOR LEAVE  
TO FILE SUPPLEMENTAL AUTHORITY**

COMES NOW, the Plaintiff, James Dennis, by counsel and respectfully moves the court for leave to file a statement of supplemental authority directly related to the Defendants' Motion to Dismiss the Amended Complaint (Docket No. 19). Plaintiff filed his opposition to the motion to dismiss on Thursday, September 8, 2011. (Docket No. 22). Under the rules of this court, the Plaintiff is not entitled to file any additional papers and therefore, under L. Rule 7(F)(1), respectfully seeks leave to file information regarding supplemental authority directly bearing on the issues presented in the Defendants' Motion to Dismiss.

This is a complex case involving questions of law and fact that relate to the treatment of applications for mortgage modifications under the federal Home Affordable Modification Program (HAMP). A similar case, with similar facts and three of the same causes of action (violation of the ECOA and VECOA, breach of the implied covenant of good faith and fair dealing, and breach of contract) against the same defendant, Wells Fargo, is currently pending in the Alexandria Division of this court. *Des Ogugua v. Wells Fargo*, No. 1:11CV188-LO, docket #39 (E.D.Va. Sept. 12, 2011). Yesterday, Judge O'Grady entered an order denying Wells Fargo's Motion to Dismiss following full briefing and a hearing on the issues. Because Wells Fargo

presented nearly identical arguments in its motion to dismiss the claims in *Des Ogugua*, and because plaintiff's opposition to those arguments is nearly identical, the Plaintiff respectfully directs the Court to the outcome of the motion to dismiss. *Id.* Because neither the hearing nor Judge O'Grady's decision had occurred prior to the deadline for the Plaintiff's opposition in this above-styled case, good cause is shown for filing supplemental authority in this matter.

Respectfully submitted,

**JAMES DENNIS**

By Counsel

/s/

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Counsel for Plaintiff, James Dennis

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13<sup>th</sup> day of September, I electronically filed Plaintiff's Motion for Leave to file Supplemental Authority to its Opposition to Defendants' Motion to Dismiss Plaintiff's Amended Complaint with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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